

Notice of Allowability

Application No.

09/709,477

Applicant(s)

PREUILH ET AL.

Examiner

Renee Claytor

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to remarks filed on 7/25/2007.
2. ☒ The allowed claim(s) is/are 68.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 8/8/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with B.J. Sadoff on 10/24/2007. The application has been amended as follows:

This application has been amended as follows:

IN THE CLAIMS

- 1) **Delete** claim 67.
- 2) **Add** claim 68 to read "A foaming composition for washing and treating the hair and/or the scalp consisting of 0.24 g citric acid, 2.6 g sodium citrate, 2 g polyquaternium 10, 17 g of sodium lauryl ether sulphate (2 moles of ethylene oxide, comprising 70% of active material), 6 g of cocoyl betaine (comprising 32% active material), 0.05 g clobetasol propionate, 10 g ethanol (95/96%), and q.s. for 100 g purified water."

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: claim 68 is allowable over the prior art, as the prior art neither teaches or suggests a foaming composition consisting of 0.24 g citric acid, 2.6 g sodium citrate, 2 g polyquaternium 10,

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17 g of sodium lauryl ether sulphate (2 moles of ethylene oxide, comprising 70% of active material), 6 g of cocoyl betaine (comprising 32% active material), 0.05 g clobetasol propionate, 10 g ethanol (95/96%), and q.s. for 100 g purified water.

The closest prior art is Kligman (US Patent 5,998,395), which teaches 0.05% clobetasol propionate in a shampoo composition; Su et al. (US Patent 4,329,334) which teaches a shampoo composition comprised of water, amphoteric surfactant and ethanol; Cameron (US Patent 4,722,837) which teaches a shampoo composition comprised of detergents such as sodium lauryl sulfate; Cauwet et al. (US Patent 5,661,118) which teaches a shampoo composition comprised of polyquaternium-10; and Mueller et al. (US Patent 5,631,003) which teaches citric acid in shampoo compositions. However, none of the prior art references teach a composition that consists of a foaming composition with the presently claimed ingredients.

Further, Applicants provided a Declaration under 35 CFR §1.132 filed on 2/26/2007, in which Applicants provided comparative examples of the presently claimed foaming composition and a composition having the same ingredients as the present invention but being absent the active agent (clobetasol propionate; composition A); a composition having the same ingredients but absent the active agent and ethanol (composition B); a composition falling within the range of that in Example I of Cameron et al. and being absent ethanol (composition C); and a composition falling within the range of that of Example I of Cameron et al. but with 10% by weight of ethanol added (composition D). Applicants exemplify that a compositions B, C and D do not have the appropriate viscosity or foaming power, including if alcohol is added to the composition

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(composition D). However, the addition of alcohol in the present composition surprisingly had no impact on the foaming power or viscosity. Therefore, the present invention exemplifies specific components in specific amounts that allow for foaming power as well as penetration of the active ingredient that is novel and non-obvious over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submission should be clearly labeled "Comments on Statement of Reasons for Allowance".

Contact Information

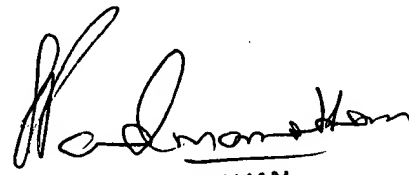
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renee Claytor whose telephone number is 571-272-8394. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Renee Claytor



SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER